

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NAOMI SUE WHITE EAGLE,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT OF  
CORRECTIONS, *et al.*,

Defendants.

CASE NO. C24-1388-JCC-BAT

ORDER

This matter comes before the Court on Plaintiff Naomi Sue White Eagle's objections (Dkt. No. 37) to the report and recommendation ("R&R") of the Honorable Brian A. Tsuchida, United States Magistrate Judge (Dkt. No. 35). Having thoroughly considered the R&R and the relevant record, the Court hereby OVERRULES Plaintiff's objections and ADOPTS Judge Tsuchida's R&R.

Plaintiff proceeds *pro se* and *in forma pauperis* with a prisoner civil rights complaint pursuant to 42 U.S.C. § 1983. (*See generally* Dkt. Nos. 4, 5.) She brings Fourteenth Amendment Due Process and Equal Protection claims, an Eighth Amendment claim, a claim for violation of the Americans with Disabilities Act ("ADA"), and, presumably, various state law claims.<sup>1</sup> (*See*

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<sup>1</sup> As Judge Tsuchida observes, "aside from listing [Washington State] statutes, Plaintiff fails to explain how Defendants' actions violated her rights under these statutes." (Dkt. No. 35 at 17.) Nevertheless, the Court presumes Plaintiff is attempting to bring state law claims.

1 *generally* Dkt. No. 5.) Plaintiff’s claims arise out of her treatment as a transgender, male-to-  
2 female prisoner in an all-male facility. (*See generally id.*) Defendants moved to dismiss for  
3 failure to state a claim, (*see generally* Dkt. No. 29), and Judge Tsuchida has issued an R&R  
4 disposing of the motion, (*see generally* Dkt. No. 35).

5 Judge Tsuchida recommends granting in part and denying in part Defendants’ motion to  
6 dismiss. (*Id.* at 1.) Specifically, Judge Tsuchida recommends the Court dismiss Plaintiff’s Due  
7 Process claim with prejudice because Plaintiff does not and cannot possess a liberty interest in  
8 being housed in a particular prison or with specific cellmates. (*See id.* at 7–8.) Judge Tsuchida  
9 further recommends the Court dismiss Plaintiff’s Eighth Amendment claim without prejudice  
10 because she merely alleges “speculative and generalized fears of harm,” which is insufficient to  
11 establish an Eighth Amendment violation. (*See id.* at 15.) However, Judge Tsuchida recommends  
12 granting Plaintiff leave to amend this claim, as she could conceivably allege sufficient facts to  
13 support an Eighth Amendment violation. (*Id.* at 17.) For the same reason, Judge Tsuchida  
14 recommends dismissing Plaintiff’s state law claims without prejudice and with leave to amend.  
15 (*Id.* at 18.) Plaintiff’s remaining claims for Equal Protection and ADA violations would survive  
16 on Judge Tsuchida’s recommendation. (*See id.* at 10, 12.) Plaintiff objects and moves to amend  
17 “and OR correct error’s [sic].” (Dkt. No. 37 at 1.) Defendants ask the Court to overrule  
18 Plaintiff’s objections. (Dkt. No. 38 at 2.)

19 A district court must conduct a *de novo* review of those portions of a magistrate judge’s  
20 R&R to which a party properly objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A party  
21 properly objects when they file “specific written objections” to the R&R. Fed. R. Civ. P.  
22 72(b)(2). In contrast, general objections or summaries of arguments previously presented have  
23 the same effect as no objection at all since they do not focus the Court’s attention on any specific  
24 issues for review. *Howard v. Sec’y of Health and Human Servs.*, 932 F.2d 505, 509 (6th Cir.  
25 1991); *see also Garvey v. Uttecht*, 2020 WL 5946157, slip op. at 1 (W.D. Wash. 2020).

26 As a threshold matter, the Court notes that it cannot distinguish which portions of  
Plaintiff’s filing (Dkt. No. 37) are meant to serve as her objections as opposed to her proposed

1 amended complaint. The Court therefore construes her filing as purely raising objections. And  
2 Plaintiff's objections largely rehash the same arguments that are in her complaint—namely, that  
3 the Defendants continue to house her in an all-male prison when she is a female prisoner and that  
4 such treatment is generally unlawful. (*Compare* Dkt. No. 37 at 1–9, *with* Dkt. No. 5 at 14–18.)  
5 Plaintiff's restatement of her previous arguments is insufficient to constitute a proper objection,  
6 and the Court need not consider it. *See Howard*, 932 F.2d at 509; *see also Garvey*, 2020 WL  
7 5946157, slip op. at 1.

8 Plaintiff does, however, raise a somewhat specific and responsive objection to Judge  
9 Tsuchida's recommendation for dismissal of her Due Process claim. Plaintiff concedes that, in  
10 theory, Judge Tsuchida would be correct that she does not have a liberty interest in being housed  
11 in a particular institution if she were "still transgender." (Dkt. No. 37 at 7.) However, Plaintiff  
12 argues that she is no longer "a transgender" because she has undergone gender-affirming  
13 vaginoplasty surgery; as such, "the transition has been compleated [sic]," Plaintiff is "now a  
14 female," and it is unlawful to house a woman in an all-male facility (*Id.*) Plaintiff appears to  
15 insinuate that those who have undergone gender-affirming care possess a liberty interest to be  
16 housed in their preferred facility, whereas those who have yet to undergo gender-affirming care  
17 do not possess this liberty interest. But Due Process creates no such distinction for sex, gender,  
18 timing of gender-affirming care, or otherwise; it holds only that a prisoner has no constitutional  
19 right to incarceration at a prison of their choice. *Williams v. Wood*, 223 F. App'x 670, 671 (9th  
20 Cir. 2007) (citing *Olim v. Wakinekona*, 461 U.S. 238, 245 (1983)). To that end, Plaintiff's  
21 objection still fails to meaningfully rebut Judge Tsuchida's recommended dismissal of Plaintiff's  
22 Due Process claim.<sup>2</sup>

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24 <sup>2</sup> Moreover, to the extent Plaintiff asserts that it is unlawful to house a male-to-female prisoner at  
25 an all-male facility because other women are typically housed at all-female facilities, the Court  
26 observes that this claim is better suited as an Equal Protection one. And indeed, Judge Tsuchida  
has already recommended allowing Plaintiff's Equal Protection claim to proceed precisely  
because Plaintiff has sufficiently alleged that she identifies as a woman and that "she has been  
denied the opportunity to be housed at a women's prison even though other prisoners who  
identify as women are housed at women's prisons." (Dkt. No. 35 at 9.)

1 The Court therefore OVERRULES Plaintiff's objections (Dkt. No. 37), ADOPTS the  
2 R&R (Dkt. No. 35), and ORDERS as follows:

- 3 1. Defendants' motion to dismiss (Dkt. No. 29) is GRANTED with respect to Plaintiff's  
4 Fourteenth Amendment Due Process claim and Eighth Amendment claim. Plaintiff's Due  
5 Process claim is DISMISSED with prejudice. Plaintiff's Eighth Amendment claim is  
6 DISMISSED without prejudice and with leave to amend within fourteen (14) days of this  
7 order.
- 8 2. Defendants' motion to dismiss (Dkt. No. 29) is DENIED with respect to Plaintiff's Equal  
9 Protection claim and her ADA claim.
- 10 3. Plaintiff's state law claims are DISMISSED without prejudice pursuant to 28 U.S.C.  
11 § 1915(e)(2) and with leave to amend within fourteen (14) days of this order.
- 12 4. Plaintiff is advised that if she files an amended complaint, she must write a short, plain  
13 statement telling the Court: (1) the constitutional or statutory right Plaintiff believes was  
14 violated; (2) the name of the person who violated the right; (3) exactly what the  
15 individual did or failed to do; (4) how the action or inaction of the individual is connected  
16 to the violation of Plaintiff's constitutional rights; and (5) what specific injury Plaintiff  
17 suffered because of the individual's conduct. *See Rizzo v. Goode*, 423 U.S. 362, 371–72,  
18 377 (1976).
  - 19 a. Each claim for relief must be simple, concise, and direct. The amended complaint  
20 must be legibly rewritten or retyped in its entirety and contain the same case  
21 number. It may not incorporate any part of the original complaint by reference.
- 22 5. The amended complaint will act as a complete substitute for the original complaint, and  
23 not as a supplement. Any fact or cause of action alleged in the original complaint that is  
24 not alleged in the amended complaint is waived. *Forsyth v. Humana, Inc.*, 114 F.3d 1467,  
25 1474 (9th Cir. 1997), *overruled on other grounds by Lacey v. Maricopa Cnty.*, 693 F.3d  
26 896 (9th Cir. 2012).

6. This matter is referred back to Judge Tsuchida for further proceedings.

1 7. The Clerk is directed to send copies of this Order to the parties and to Judge Tsuchida.  
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3 DATED this 28th day of February 2025.  
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7 John C. Coughenour  
8 UNITED STATES DISTRICT JUDGE  
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